IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX REFERENCE NO.159 OF 1997

The Commissioner of Income Tax
Nasik .. Applicant.
V/s.
Madhukar SSK Ltd., Faizpur .. Respondent.

Mr.A.S. Rao with Mr.Pankaj Kapoor for the applicant.

Mr.S.N. Inamdar with Mr.P. Vaidya for the respondent.

CORAM : V.C. DAGA &
J.P. DEVADHAR, JJ.

DATED : 19TH APRIL, 2005.

P.C. :

1. Heard the learned counsel for the parties. The Tribunal has referred following questions for the opinion of this Court, reading as under :

> Whether on the facts and in the circumstances of the case, the Tribunal relying on the Special Bench in the case of Shri Chhatrapati SSK Ltd. (198 ITR 78 -AT), was right in deleting the following additions by holding that the various funds and deposits are not trading receipts of the assessee ?

	1980-81	1981-82	1982-83	1983-84	1984-85	1985-86	1986-87
1. N.R. deposits	1359519	722370	1207494	2379370	4032735	2553345	2016683
2. C.M. fund	81788	-	114225	-	-	-	-
3. Hutment fund	-	-	172587	-	-	-	-
4. Area Dev. fund	-	172587	-	-	-	342848	-
5. Sugarcane Dev.fund	-	-	159512	-	-	-	192891
6. Y.B. Chavan	-	-	-	-			

2. In so far as all other items except cane development fund and area development fund are concerned, the issue is covered by the decision of the Apex Court in the case of **Siddheshwar S.S.K. Ltd. V/s. CIT [(2004) 270 ITR 1 (SC)]** in favour of the assessee and against the revenue. So far as cane development fund and area development fund are concerned, the issue will have to be referred back to the Tribunal for consideration afresh as per the judgment of the Apex Court in the case of Siddheshwar S.S.K. Ltd. (supra). As such the said issues stand remanded back to the Tribunal for consideration afresh.

3. The reference is disposed of in the above terms with no order as to costs.

(V.C. DAGA, J.)

(J.P. DEVADHAR, J.)